



Atty. Dkt. No. 071949-2406

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BUECHLER et al.

Title: HYBRID PHTHALOCYANINE
DERIVATIVES AND THEIR USES

Appl. No.: 09/066,255

Filing Date: 04/23/1998

Examiner: Shibuya, Mark L.

Art Unit: 1639

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.</p> <p><u>Germaine Sarda</u> (Printed Name)</p> <p><u>Germaine Sarda</u> (Signature)</p> <p><u>January 4, 2005</u> (Date of Deposit)</p>

TRANSMITTAL FOR PETITION FOR REVIVAL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for the above-identified application please find:

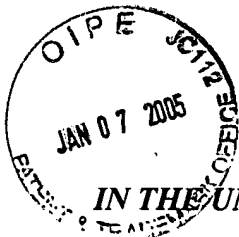
1. Petition for Revival of Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b).
2. Petition fee in the amount of \$1,500.00.
3. Response to Office Action and Interview Summary Record.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date January 4, 2005
FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6700
Facsimile: (858) 792-6773

By Richard J. Warburg
Richard J. Warburg
Attorney for Applicant
Registration No. 32,372



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**PETITION FOR REVIVAL OF APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition requests that the above-identified patent application be revived on the basis that its abandonment was unintentional.

The above-identified application became abandoned for failure to file a response to the Office Action (Action under Ex Parte Quayle) mailed on March 10, 2004, which set a two-month period for the response. In that Office Action, Examiner Mauria Baker indicated that a call requesting authorization to cancel non-elected claims had been made to Applicants on February 27, 2004, but that no reply had been received. Applicants have no record of receiving such communication. The Office Action was received by the undersigned on March 12, 2004. A letter reporting the Office Action was mailed to Applicants on April 22, 2004. The undersigned attorney for Applicants called Examiner Baker's telephone on May 7, 2004 (571-272-0805). Examiner Baker did not answer and a recorded message encouraged the undersigned to leave a voice mail message. The undersigned proceeded to leave a voice mail message authorizing cancellation of all non-elected claims on Examiner Baker's telephone on May 7, 2004. Applicants were not aware, until learning from Examiner Andrew Wang on December 16, 2004, that Examiner Baker had resigned from the USPTO in March of 2004. The recorded message on Examiner Baker's telephone accessed by the undersigned on May 7, 2004 did not indicate that Examiner Baker was no longer working at the Patent Office. Applicants were unaware that the authorization to cancel non-elected claims given to Examiner Baker by telephone message on May 7, 2004 was not received or recorded by the USPTO.

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APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Required reply and/or fee;
- (2) Petition fee (37 C.F.R. § 1.17(m));
- (3) Statement that the abandonment was unintentional; and
- (4) Any required terminal disclaimer (37 C.F.R. § 1.137(c)).

1. Required reply and/or fee.

The proposed reply and required fee for the above-noted Office Action is filed herewith in the form of an Amendment in Response to the Office Action authorizing cancellation of claims 23-27, 29, 31, 33 and 35.

2. Petition fee (37 C.F.R. § 1.17(m))

A check in the amount of \$1,500.00 is enclosed for the amount stated in 37 C.F.R. § 1.17(m) to cover the fee for this petition.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

3. Statement that the abandonment was unintentional.

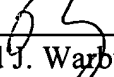
Applicant hereby states that the entire delay in filing the required reply, from the due date for the reply until the filing of this petition, was unintentional.

4. Any required terminal disclaimer (37 C.F.R. § 1.137(c)).

No terminal disclaimer is required in this application under 37 C.F.R. § 1.137(c) since this application was not filed before June 8, 1995.

Respectfully submitted,

Date January 4, 2005
FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6700
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By 
Richard J. Warburg
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